UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/824,065	KADASHEVICH, A. JULIE
	Examiner	Art Unit	
	Abdullah-Al Kawsar	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _03/09/2006_.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-23_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-23_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _04/14/2004_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-23 are pending.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claim 19 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed apparatus and systems are software per se, as they are not tangibly embodied on any sort of physical medium. The claim recite "means for identifying", "means for initiating", "means for determining", but these limitations are described as being software in the specification.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. .

5.   Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

        a.   The following claim language is not clearly understood:

                i.   Claim 1, line 1 it is unclear what is meant by "monitoring system processor usage time by a software agent" (i.e. using software agent to monitor

other process or monitoring CPU usage of software agents on the system?). Line 4

recite "initiating a lifetime timer" it is unclear how and when the lifetime timer is

being initiated. Line 4 recite "monitoring an operating interval" it is unclear how

the operating interval is being defined. Line 6 recite "determining said operating

interval using the lifetime timer" it is unclear how it is determined using the

lifetime timer. Claim 13, 16 and 20 has similar deficiency as claim 1 above.

ii.   As per claims 12, it is unclear whether this is independent or dependent

claim (i.e. claim 12 is a computer readable medium claim but dependent on claim

1.).

iii.   Claim 13, line 6 recite "determining system processor resource allocation"

it is unclear how it is determined (i.e. what is the basis of allocation? Priority or

lifetime?). Line 7 recite "defining a footprint" it is not clear how the footprint is

being defined and what is the footprint.

iv.   Claim 20, line10 recite "producing a like plurality of identified threads" it

is unclear what is meant by that (i.e. creating "copy"). Line 13 it is unclear what is

meant by "producing an identified thread set" (i.e. identify threads that belong to

same agent?).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-23 are rejected under 35 U.S.C. 103(a) being unpatentable over Ding et

al(Ding) US Patent No. 6691067, in view of Freeman(Freeman) US Patent No. 6330588.

8.   As per claims 1, Ding teaches the invention substantially as claimed including a method

for monitoring system processor usage time by a software agent operating in a computer system,

said method comprising the steps of (col 6, lines 20-27):

        identifying said agent by associating an agent identifier therewith(col 9, lines 24-26);

        initiating an agent lifetime timer for monitoring an operating interval for said agent(col

13, lines 31-39);

        determining said operating interval using said lifetime timer (col 13, lines 21-25); and

        storing said operating interval and said agent identifier in a computer-readable

memory(col 9, lines 19-30).

        Ding does not disclose specifically monitoring system processor usage time by a software

agent operating in a computer system.

        However, Freeman teaches that monitoring system processor usage time by a software

agent operating in a computer system(col 2, lines 5-8).

        It would have been obvious to a person of ordinary skill in art at the time of invention

was made to incorporate the teaching of Freeman into the method of Ding for monitoring system

processor usage by a software agent. The modification would have been obvious because one of

the ordinary skills of the art would monitor the software agent to confirm their activity and fix

issues that causing the agent to stall.

9.   As per claim 2, Ding teaches the said computer-readable memory includes a hash table

(col 9, lines 31-43).

10.   As per claim 3, Ding teaches that determining said operating interval further comprises

identifying a start time and a completion time for said agent (col 13, lines 21-24).

11.   As per claim 4, Ding teaches that determining said operating interval further comprises

computing an elapsed time as the difference between said starting time and said completion time

for said agent (col 13, lines 63-67 through col 14, line1).

12.   As per claim 5, Ding teaches that associating said operating interval and said agent

identifier with other operating intervals and agent identifiers associated with a plurality of other

software agents operating in said system (col 7, lines 21-24; col 13, lines 18-39).

13.   As per claim 6, Ding teaches that filtering said agent and said plurality of other agents

according to predefined filtering criteria to produce a filtered set (col 10, lines 64-67 through col

11, lines 1-6).

14.   As per claim 7, Ding teaches the rank ordering said filtered set (col 10, lines 55-57).

15.   As per claim 8, Ding teaches that making said filtered set available to a display device (col 7, lines 37-43; col 10, lines 64-67 through col 11, lines 1-6).

16.   As per claim 9, Ding teaches that determining a corrective measure for at least one member of said filtered set (col 11, lines 1-10; lines 54-67 through col 12, lines 1-4).

17.   As per claim 10, Ding teaches that displaying said corrective measure on a display device (col 11, lines 26-31; lines 54-67 through col 12, lines 1-4).

18.   As per claim 11, Ding teaches that corrective measure is implemented by said system (col 21, lines 53-67).

19.   As per claim 13, Ding teaches the invention substantially as claimed including a method for monitoring system processor time usage by a software agent having a thread associated therewith, said thread having a thread lifetime and said agent having an agent lifetime, said method comprising the steps of(col 6, lines 20-27):

        associating an agent identifier with said agent (col 9, lines 24-26);

        initiating an agent lifetime timer for monitoring said agent lifetime (col 13, lines 31-39);

        determining system processor resource allocations associated with said agent, said resource allocations defining a footprint for said agent comprising(col 13, lines 31-39):

        an amount of system processor resources utilized by said thread during said thread lifetime (col 13, lines 31-39); and

an amount of system processor resources utilized by said agent during said agent lifetime

(col 13, lines 31-39);

associating said footprint with said agent identifier (col 10, lines 33-46);

storing said footprint and said agent identifier in a computer-readable memory(col 9,

lines 31-43);

comparing said footprint of said agent to a plurality of footprints associated with a like

plurality of other software agents(col 10, lines 53-17;col 7, lines 21-24);

ranking said footprint of said agent against said plurality of footprints(col 10, lines 55-

57); and

displaying those of said agent footprint and said plurality of footprints exceeding a

predefined threshold (col 7, lines 37-49).

Ding does not disclose specifically monitoring system processor usage time by a software

agent operating in a computer system.

However, Freeman teaches that monitoring system processor usage time by a software

agent operating in a computer system(col 2, lines 5-8).

20.   As per claim 14, Ding teaches that establishing a system processor resources

configuration threshold defining a maximum amount of system processor resources to be utilized

by each of said software agent and said plurality of other software agents (col 6, lines 20-27; col

7, lines 39-49).

21.   As per claim 15, Ding teaches that running a collection probe to determine if a total

amount of consumed system processor resources exceeds said configuration threshold(col 7,

lines 39-42); and

        performing said initiating step when said total amount of consumed system processor

resources exceeds said configuration threshold (col 8, lines 1-26).

22.   As per claim 16, Ding teaches the invention substantially as claimed including a

computer program product having machine-readable instructions disposed thereon for instructing

a processor to perform a method for monitoring system processor time for a software agent

operating in a computer system, said computer program product comprising(col 6, lines 20-27):

        instructions for initiating an agent lifetime timer for monitoring an operating interval

associated with said agent(col 13 lines 31-39);

        instructions for determining system processor resource allocations associated with said

agent(col 13, lines 31-39);

        instructions for storing said operating interval and said resource allocations associated

with said agent(col 9, lines 19-30); and

        instructions for notifying a system operator about said operating interval and said

resource allocations(col 7, lines 43-48).

        Ding does not disclose specifically monitoring system processor time for a software agent

operating in a computer system.

        However, Freeman teaches that monitoring system processor time for a software agent

operating in a computer system (col 2, lines 5-8).

23.   As per claim 17, Ding teaches that instructions for associating a software agent identifier

with said agent, said identifier for facilitating tracking said system processor time associated with

said agent(col 10, lines 33-46).

24.   As per claim 18, Ding teaches that instructions for associating said software agent

identifier with said operating interval and said resource allocations prior to storing said operating

interval and said resource allocations associated with said agent (col 10, lines 33-46).

25.   As per claim 20, Ding teaches the invention substantially as claimed including a method

for tracking system processor time for a target agent operatively associated with a hypertext

transport protocol process operating on a computer system and running a plurality of threads,

said target agent further operating with at least one of said plurality of threads, said method

comprising(col 6, lines 20-27; col 8, lines 17-26):

        initiating an agent tracking function in machine-executable code in said computer

system(col 9, lines 24-26);

        creating a computer-readable hash table in a memory operatively associated with said

computer system (col 9, lines 31-43);

        identifying members of said plurality of threads by associating a thread identifier with

each member of said plurality of threads producing a like plurality of identified threads(col 10,

lines 39-42);

identifying those of said plurality of identified threads having said target agent operating

therewith producing an identified thread set(col 10, lines 39-45);

determining an amount of said system processor time utilized by said identified thread

set(col 13, lines 31-39); and

storing said system processor time for said identified thread set in said hash table, thereby

tracking said system processor time for said target agent(col 9, lines 31-43).

Ding does not disclose specifically target agent operatively associated with a hypertext

transport protocol process operating on a computer system.

However, Freeman teaches that target agent operatively associated with a hypertext

transport protocol process operating on a computer system and (col 2, lines 5-8; col 5, lines 51-

62).

26.   As per claims 12, it is a computer readable medium claim of claim 1 above. Therefore, it

is rejected under the same rations as of claim 1 above.

27.   As per claim 19, it is a means plus function claim of combined method of claims 1 and 2

above. Therefore, it is rejected under the same rational as claims 1 and 2 above.

28.   As per claims 21-23, they have similar limitations of claims 6-8 above. Therefore, they

are rejected under the same rational as of claims 6-8 above.

Conclusion

29.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Hafez et al.(US Patent No. 6560647), Borella et al.(US Patent No. 7218609).

30.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Abdullah-Al Kawsar whose telephone number is 571-270-3169.

The examiner can normally be reached on 7:30am to 5:00pm, EST.

31.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng Ai T. An can be reached on 571-272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

32.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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